

CHAPTER 215

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 09-1164

BY REPRESENTATIVE(S) Primavera, Gagliardi, Green, Kefalas, Kerr J., McGihon, Apuan, Casso, Court, Fischer, Kerr A., Labuda, Levy, Looper, Massey, McCann, Merrifield, Middleton, Miklosi, Pace, Peniston, Rice, Scanlan, Solano, Stephens, Tipton, Todd, Weissmann, McFadyen, Priola, Schafer S.;
also SENATOR(S) Kester, Boyd, Foster, Groff, Hodge, Hudak, Newell, Shaffer B., Williams.

AN ACT

CONCERNING A SURCHARGE ON BREAST CANCER AWARENESS SPECIAL LICENSE PLATES TO PROVIDE FUNDING FOR CANCER TREATMENT FOR WOMEN WHO ARE NOT CURRENTLY ELIGIBLE TO PARTICIPATE IN THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", AND REQUIRING A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS ACT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that, for the purpose of post-enactment review pursuant to section 5 of this act and section 2-2-1201, Colorado Revised Statutes, the desired result and benefit of this act is to raise sufficient revenues from a surcharge on the breast cancer awareness special license plate imposed pursuant to section 42-3-217.5 (3) (c), Colorado Revised Statutes, enacted by section 2 of this act, to expand eligibility for low-income persons who are screened by a provider as described in section 25.5-5-308 (2) (a) (I) (B), Colorado Revised Statutes, enacted by section 4 of this act, to participate in the breast and cervical cancer prevention and treatment program under the "Colorado Medical Assistance Act".

SECTION 2. 42-3-217.5 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-3-217.5. Special plates - breast cancer awareness - retirement. (3) (c) IN ADDITION TO THE TAXES AND FEES SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (3), A PERSON APPLYING FOR A NEW OR REPLACEMENT BREAST CANCER AWARENESS SPECIAL LICENSE PLATE SHALL PAY A SURCHARGE OF TWENTY-FIVE DOLLARS. A PERSON APPLYING ON OR BEFORE JUNE 30, 2012, TO RENEW A BREAST CANCER

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

AWARENESS SPECIAL LICENSE PLATE SHALL HAVE THE OPTION TO PAY THE TWENTY-FIVE DOLLAR SURCHARGE BUT SHALL NOT BE REQUIRED TO PAY THE SURCHARGE IN ORDER TO RENEW THE SPECIAL PLATE. ON OR AFTER JULY 1, 2012, A PERSON APPLYING TO RENEW A BREAST CANCER AWARENESS SPECIAL LICENSE PLATE SHALL PAY THE TWENTY-FIVE DOLLAR SURCHARGE REQUIRED BY THIS PARAGRAPH (c). THE DEPARTMENT SHALL TRANSMIT THE SURCHARGE TO THE STATE TREASURER, WHO SHALL CREDIT THE SURCHARGE TO THE ELIGIBILITY EXPANSION ACCOUNT OF THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT FUND CREATED IN SECTION 25.5-5-308 (8) (c), C.R.S., FOR USE IN ACCORDANCE WITH THAT SECTION; EXCEPT THAT ONCE THE ELIGIBILITY EXPANSION ACCOUNT IS DISSOLVED PURSUANT TO SECTION 25.5-5-308 (8) (c) (III), C.R.S., THE STATE TREASURER SHALL CREDIT THE SURCHARGE TO THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT FUND CREATED IN SECTION 25.5-5-308 (8) (a), C.R.S. THE DEPARTMENT SHALL ENSURE IMPLEMENTATION OF THIS PARAGRAPH (c) NO LATER THAN OCTOBER 31, 2009.

SECTION 3. Repeal. 42-3-217.5 (6) and (7), Colorado Revised Statutes, are repealed as follows:

42-3-217.5. Special plates - breast cancer awareness - retirement. (6) ~~This section shall take effect July 1, 2006.~~

~~(7) The special license plates authorized by this section shall be retired unless such plates have been issued for at least three thousand vehicles by January 1, 2009.~~

SECTION 4. 25.5-5-308 (2) (a) (I) and (8) (a), Colorado Revised Statutes, are amended, and the said 25.5-5-308 (8) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

25.5-5-308. Breast and cervical cancer prevention and treatment program - creation - legislative declaration - definitions - funds - repeal. (2) As used in this section, unless the context otherwise requires:

(a) "Eligible person" means a person who:

(I) (A) Has been screened for breast or cervical cancer under the centers for disease control and prevention's national breast and cervical cancer early detection program established under Title XV of the federal "Public Health Service Act", 42 U.S.C. sec. 300k et seq., in accordance with the requirements of section 1504 of such act, 42 U.S.C. sec. 300n, on or after July 1, 2002, unless the centers for medicare and medicaid services approves the state department's amendment to the medical assistance plan and the state department is able to implement the breast and cervical cancer prevention and treatment program before such date, then the person must be screened on or after the implementation date of such program; OR

(B) HAS BEEN SCREENED FOR BREAST OR CERVICAL CANCER BY A PROVIDER WHO DOES NOT RECEIVE FUNDS THROUGH THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S NATIONAL BREAST AND CERVICAL CANCER EARLY DETECTION PROGRAM BUT WHOSE SCREENING ACTIVITIES ARE RECOGNIZED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AS PART OF SCREENING ACTIVITIES UNDER THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S NATIONAL BREAST AND

CERVICAL CANCER EARLY DETECTION PROGRAM. THIS SUB-SUBPARAGRAPH (B) SHALL APPLY ONLY IF THE STATE DEPARTMENT RECEIVES AUTHORITY TO RECEIVE FEDERAL FINANCIAL PARTICIPATION FOR SUCH PERSONS. THE STATE DEPARTMENT SHALL REQUEST AUTHORITY FOR FEDERAL FINANCIAL PARTICIPATION WHEN THE STATE DEPARTMENT DETERMINES THAT THE AMOUNT OF MONEYS ACCUMULATED IN THE ELIGIBILITY EXPANSION ACCOUNT CREATED IN PARAGRAPH (c) OF SUBSECTION (8) OF THIS SECTION, INCLUDING ANY AMOUNTS PLEDGED OR PROMISED THROUGH A GIFT, GRANT, OR DONATION, IS SUFFICIENT TO SUSTAIN THE PROJECTED NUMBER OF ADDITIONAL PERSONS WHO WOULD BE ELIGIBLE FOR THE PROGRAM UNDER THIS SUB-SUBPARAGRAPH (B).

(8) (a) (I) There is hereby created in the state treasury the breast and cervical cancer prevention and treatment fund, referred to in this subsection (8) as the "fund". The fund shall consist of any moneys credited thereto pursuant to section 24-22-115 (1), C.R.S., any gifts, grants, and donations, ~~and~~ any moneys appropriated thereto by the general assembly, AND ANY MONEYS TRANSFERRED FROM THE ELIGIBILITY EXPANSION ACCOUNT PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (c) OF THIS SUBSECTION (8). Except as provided for in paragraph (b) of this subsection (8), all moneys credited to the fund and all interest and income earned on the moneys in the fund shall remain in the fund for the purposes set forth in this section. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund. The state department is encouraged to secure private gifts, grants, and donations to fund the state costs of the breast and cervical cancer prevention and treatment program.

(II) MONEYS IN THE FUND MAY BE USED TO COVER THE ADMINISTRATIVE COSTS OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO RECOGNIZE PROVIDERS IN ACCORDANCE WITH SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION AS PROVIDING SCREENING ACTIVITIES UNDER THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S NATIONAL BREAST AND CERVICAL CANCER EARLY DETECTION PROGRAM.

(c) (I) THERE IS HEREBY CREATED, AS AN ACCOUNT WITHIN THE FUND, THE ELIGIBILITY EXPANSION ACCOUNT, REFERRED TO IN THIS SUBSECTION (8) AS THE "ACCOUNT". THE ACCOUNT SHALL CONSIST OF MONEYS CREDITED THERETO PURSUANT TO SECTION 42-3-217.5 (3) (c), C.R.S, ANY GIFTS, GRANTS, AND DONATIONS, AND ANY OTHER MONEYS APPROPRIATED THERETO BY THE GENERAL ASSEMBLY. MONEYS IN THE ACCOUNT SHALL BE EXPENDED ONLY TO FUND THE COST TO EXPAND THE ELIGIBILITY CRITERIA FOR PARTICIPATION IN THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM TO PERSONS DESCRIBED IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION WHO ARE SCREENED FOR BREAST OR CERVICAL CANCER BY A PROVIDER WHO DOES NOT RECEIVE FUNDS THROUGH THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S NATIONAL BREAST AND CERVICAL CANCER EARLY DETECTION PROGRAM ESTABLISHED UNDER TITLE XV OF THE FEDERAL "PUBLIC HEALTH SERVICE ACT", 42 U.S.C. SEC. 300k ET SEQ., TO PROVIDE SCREENING ACTIVITIES. THE STATE DEPARTMENT SHALL NOT BE REQUIRED TO TRACK OR REPORT ON THE PERSONS WHO BECOME ELIGIBLE FOR PARTICIPATION IN THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION

(2) OF THIS SECTION SEPARATELY FROM THOSE PERSONS WHO ARE ELIGIBLE FOR THE PROGRAM PURSUANT TO SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, NOR SHALL THE STATE DEPARTMENT BE REQUIRED TO TRACK OR REPORT SEPARATELY ON EXPENDITURES RELATED TO PERSONS ELIGIBLE TO PARTICIPATE IN THE PROGRAM PURSUANT TO EITHER SUCH SUB-SUBPARAGRAPH.

(II) NOTWITHSTANDING PARAGRAPH (b) OF THIS SUBSECTION (8), ALL MONEYS CREDITED TO THE ACCOUNT AND ALL INTEREST AND INCOME EARNED ON THE MONEYS IN THE ACCOUNT SHALL REMAIN IN THE ACCOUNT FOR THE PURPOSES SET FORTH IN THIS PARAGRAPH (c) AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (c). THE STATE DEPARTMENT IS ENCOURAGED TO SECURE PRIVATE GIFTS, GRANTS, AND DONATIONS TO HELP FUND THE COSTS TO EXPAND THE ELIGIBILITY CRITERIA FOR PARTICIPATION IN THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM AS DESCRIBED IN THIS PARAGRAPH (c).

(III) (A) UPON DETERMINING THAT THE AMOUNT OF MONEYS ACCUMULATED IN THE ACCOUNT, INCLUDING ANY AMOUNTS PLEDGED OR PROMISED THROUGH A GIFT, GRANT, OR DONATION, IS SUFFICIENT TO SUSTAIN THE PROJECTED NUMBER OF ADDITIONAL PERSONS WHO WOULD BE ELIGIBLE FOR THE PROGRAM UNDER SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, AND UPON OBTAINING AUTHORITY TO RECEIVE FEDERAL FINANCIAL PARTICIPATION FOR PERSONS ELIGIBLE UNDER SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, THE STATE DEPARTMENT SHALL NOTIFY THE JOINT BUDGET COMMITTEE THAT THE ACCOUNT BALANCE IS SUFFICIENT TO EXPAND ELIGIBILITY FOR THE PROGRAM AND SHALL REQUEST AN APPROPRIATION FOR THE FISCAL YEAR FOR WHICH THE FEDERAL AUTHORITY HAS BEEN GRANTED TO FUND THE PERSONS ELIGIBLE PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

(B) ONCE THE STATE DEPARTMENT HAS NOTIFIED THE JOINT BUDGET COMMITTEE, THE STAFF DIRECTOR OF THE JOINT BUDGET COMMITTEE SHALL REQUEST THAT THE STATE TREASURER TRANSFER THE MONEYS IN THE ELIGIBILITY EXPANSION ACCOUNT TO THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT FUND AND DISSOLVE THE ACCOUNT.

(C) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE WHEN THE STATE TREASURER TRANSFERS THE BALANCE OF THE ELIGIBILITY EXPANSION ACCOUNT TO THE BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT FUND AND DISSOLVES THE ACCOUNT. THE STATE TREASURER SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING WHEN THE CONDITIONS SPECIFIED IN THIS SUB-SUBPARAGRAPH (C) HAVE BEEN SATISFIED.

SECTION 5. Accountability. Five years after this act becomes law and in accordance with section 2-2-1201, Colorado Revised Statutes, the legislative service agencies of the Colorado General Assembly shall conduct a post-enactment review of the implementation of this act utilizing the information contained in the legislative declaration set forth in section 1 of this act.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 2, 2009